

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT’S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION “SUMMARY ORDER”). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 26<sup>th</sup> day of January, two thousand sixteen.

PRESENT: DENNIS JACOBS,  
RICHARD C. WESLEY,  
DEBRA ANN LIVINGSTON,  
Circuit Judges.

- - - - -X  
UNITED STATES OF AMERICA,  
Appellee,

-v.- 15-262-cr

MAMIE ALLEN,  
Defendant-Appellant.

- - - - -X  
FOR APPELLEE: Kevin J. Doyle (Gregory L. Waples, on the brief), Assistant United States Attorneys, for Eric S. Miller, United States Attorney for the District of Vermont, Burlington, Vermont.

1 **FOR DEFENDANT-APPELLANT:** Maryanne E. Kampmann, Stetler,  
2 Allen & Kampmann, Burlington,  
3 Vermont.  
4

5 Appeal from a judgment of the United States District  
6 Court for the District of Vermont (Reiss, C.J.).  
7

8 **UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED**  
9 **AND DECREED** that the judgment of the district court be  
10 **AFFIRMED.**  
11

12 Defendant-appellant Mamie Allen pled guilty in the  
13 United States District Court for the District of Vermont  
14 (Reiss, C.J.) to possession of heroin with intent to  
15 distribute pursuant to a plea agreement that reserved her  
16 right to seek review of the May 29, 2014, Opinion and Order  
17 denying Allen's motion to suppress evidence.<sup>1</sup> We assume the  
18 parties' familiarity with the underlying facts, the  
19 procedural history, and the issues presented for review.  
20

21 The district court did not determine whether Allen's  
22 encounter with federal agents was entirely consensual (as  
23 the government had argued), because it held that any seizure  
24 of Allen had been a lawful Terry stop. See Terry v. Ohio,  
25 392 U.S. 1 (1968). Allen challenges that court's  
26 determination that the agents had the reasonable suspicion  
27 of criminal activity required for a lawful Terry stop, as  
28 well as some of the related factual findings.  
29

30 The relevant factual findings were not clearly  
31 erroneous, see United States v. Bershchansky, 788 F.3d 102,  
32 109-10 (2d Cir. 2015) (factual determinations on motions to  
33 suppress are either reviewed for clear error or viewed in  
34 the light most favorable to the party that prevailed on the  
35 motion), and the legal conclusion was correct. Facts found  
36 by the district court include: (1) the agents had  
37 intelligence that drug couriers were disembarking at the  
38 Castleton train station to avoid surveillance by law  
39 enforcement at the Rutland station; (2) the agents observed  
40 a single vehicle parked away from all the other vehicles at  
41 the Castleton station, in the less-well-lit area to the east

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<sup>1</sup> Allen's notice of appeal identifies both the denial  
of her motion to suppress and the denial of her subsequent  
motion for reconsideration; however, her appellate brief  
challenges only the denial of the motion to suppress.

1 of the station, a place Special Agent Doud had not  
2 previously seen any vehicle parked;<sup>2</sup> (3) both occupants  
3 appeared to the agents to be nervous, and avoided eye  
4 contact; (4) the occupants did not leave the car to greet  
5 the arriving passenger (Allen), unlike the occupants of  
6 other vehicles that evening; (5) the agents were aware  
7 through training and experience that drug traffickers often  
8 wait to see whether a courier is confronted by law  
9 enforcement before making contact; (6) the vehicle's license  
10 plate traced to 76 Traverse Place, and the agents knew that  
11 the "70s block" of Traverse Place was associated with  
12 allegations of drug trafficking; (7) 76 Traverse Place was  
13 within walking distance of the Rutland train station  
14 (raising the question of why the passenger had been picked  
15 up at the Castleton station, approximately 12 miles away);  
16 and (8) the vehicle drove to that address, and parked.<sup>3</sup>  
17

18 Allen argues that each of these facts, in isolation,  
19 was consistent with an innocent explanation and therefore is  
20 entitled to no weight. That piecemeal approach to  
21 reasonable suspicion has been expressly rejected by the

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<sup>2</sup> The district court's opinion stated that the car was parked "in the east parking lot, which is a gravel lot with only one street light." App'x 29. Allen argues that neither agent testified that the car was parked in the gravel lot. Doud's testimony, including his identification of the car's location on a photograph exhibit, may support the district court's specific finding. Special Agent Destito, however, testified that the car was parked on the east side of the station, but in front of the station. In any event, all the testimony supports the finding that is relevant to the reasonable suspicion inquiry: The car was parked east of the station in a less-well-lit area, and all the other vehicles were parked in the west parking lot.

<sup>3</sup> Allen argues that the district court should have found that racial profiling motivated the agents. As the district court explained in its denial of Allen's motion for reconsideration, Allen "points to no actual evidence of racial profiling. If anything, the facts in this case undermine any suggestion of racial profiling. Agents Doud and Destito specifically did not think Defendant, a woman of color, fit the profile of a drug courier, and they were suspicious of Ms. Emery's vehicle even though she was the Caucasian operator of it." App'x 270.

1 Supreme Court. United States v. Arvizu, 534 U.S. 266, 274-  
2 75 (2002). A reviewing court must instead "look at the  
3 'totality of the circumstances' of each case to see whether  
4 the detaining officer has a 'particularized and objective  
5 basis' for suspecting legal wrongdoing," which includes  
6 inferences drawn from the officer's "own experience and  
7 specialized training." Id. at 273 (quoting United States v.  
8 Cortez, 449 U.S. 411, 417 (1981)). Based on the totality of  
9 the circumstances, the agents here had a reasonable  
10 suspicion, based on specific, articulable facts, that Allen  
11 and the other occupants of the vehicle were trafficking  
12 illegal drugs. See id. at 273-78; United States v. Sokolow,  
13 490 U.S. 1, 7-10 (1989); United States v. Bailey, 743 F.3d  
14 322, 332 (2d Cir. 2014).

15  
16 For the foregoing reasons, and finding no merit in  
17 Allen's other arguments, we hereby **AFFIRM** the judgment of  
18 the district court.  
19  
20

21 FOR THE COURT:  
22 CATHERINE O'HAGAN WOLFE, CLERK  
23